

BEFORE THE PHYSICAL THERAPY LICENSURE BOARD

STATE OF IDAHO

In the Matter of the License of: )  
 ) Case No. PHT-2007-4  
MICHAEL TERRY MANN, )  
License No. PT-1800, ) **STIPULATION AND**  
 ) **CONSENT ORDER**  
Respondent. )  
 )  
PHT\Mann\PT128lka

WHEREAS, information has been received by the Idaho State Physical Therapy Licensure Board (the "Board") that constitutes sufficient grounds for the initiation of an administrative action against Michael Terry Mann ("Respondent"); and

WHEREAS, the parties mutually agree to settle the matter in an expeditious manner in lieu of administrative hearings before the Board; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

**A. Stipulated Facts and Law**

A.1. The Board regulates the practice of physical therapy in the State of Idaho in accordance with title 54, chapter 22, Idaho Code.

A.2. The Board has issued License No. PT-1800 to Respondent. Respondent's license is subject to the provisions of title 54, chapter 22, Idaho Code and the Board's rules at IDAPA 24.13.01, *et seq.*

A.3. On February 13, 2007, the State of Washington Board of Physical Therapy entered a Findings of Fact, Conclusions of Law and Final Order in In the Matter of the License to Practice as a Physical Therapist of: Michael T. Mann, Docket No. 06-04-A-1024PT. A true and correct copy of the Findings of Fact, Conclusions of Law and Final Order in Docket No. 06-04-A-1024PT is attached hereto as Exhibit A.

A.4. In the Findings of Fact, Conclusions of Law and Final Order in Docket No. 06-04-A-1024PT, the State of Washington Board of Physical Therapy:

a. Found that Respondent had engaged in unprofessional conduct, including an act of moral turpitude, negligence, and abuse of and/or sexual contact with a patient (Exhibit A, p. 10); and

b. Revoked Respondent's license to practice as a physical therapist in the State of Washington and ordered that prior to reinstatement, Respondent shall submit to a psychiatric or psychological sexual-psycho evaluation, obtain 14 hours of medical screening, and pay a fine and costs (Exhibit A, pp. 11-13).

A.5. The allegations of Paragraphs A.3 and A.4 violate the laws governing the practice of physical therapy, specifically Idaho Code § 54-2219(9) (Board may discipline licensee for having had license revoked or suspended by another state). Violations of this law constitute grounds for disciplinary action against Respondent's license to practice physical therapy in the State of Idaho.

#### **B. Waiver of Procedural Rights**

I, Michael Terry Mann, by affixing my signature hereto, acknowledge that:

B.1. I have read, understand <sup>\*</sup>and admit the allegations pending before the Board, as stated in Section A, Paragraphs A.3 and A.4. I further understand that these allegations constitute cause for disciplinary action upon my license to practice physical therapy in the State of Idaho. *\* Please see attached statement. MM*

B.2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to testify myself; the right to reconsideration of the Board's orders; the right to judicial review of the Board's orders; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of physical therapy in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this Stipulation as a resolution of the pending allegations.

B.3. I understand that in signing this Stipulation I am enabling the Board to impose disciplinary action upon my license without further process.

### **C. Stipulated Discipline**

C.1. License No. PT-1800 issued to Respondent Michael Terry Mann is hereby REVOKED, and Respondent shall immediately return said license to the Bureau of Occupational Licenses.

C.2. Respondent shall pay investigative costs and attorney fees in the amount of Two Hundred Fifty-Five and No/100 Dollars (\$255.00) within thirty (30) days of the entry of the Board's Order.

C.3. Prior to reinstatement, Respondent shall:

a. Submit to a psychiatric or psychological sexual-psycho evaluation performed by a Board-approved licensed psychiatrist or psychologist (the "evaluator"). Respondent shall provide a copy of this Stipulation and Consent Order to the evaluator, and the evaluator shall provide a copy of the evaluation report to the Board. The evaluation shall include the following assessment:

- i. Psychiatric or psychological diagnosis, if any.
- ii. Treatment recommendations, if any.
- iii. Capacity to participate in treatment, if treatment is indicated.
- iv. Future mental stability with regard to the ability to practice safely.
- v. Recommendations regarding Respondent's continuing practice of the physical therapy profession, if any.

If the evaluator finds that Respondent is in need of treatment in order to practice safely, Respondent shall undergo and complete treatment by a treatment provider approved in advance by the Board.

b. Submit to the Board written proof of completion of a minimum of fourteen (14) hours of a medical screening course.

C.4. All costs associated with compliance with the terms of this Stipulation are the sole responsibility of Respondent.

C.5. The violation of any of the terms of this Stipulation by Respondent may warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

#### **D. Presentation of Stipulation to Board**

D.1. The Board's prosecutor shall present this Stipulation to the Board with a recommendation for approval.

D.2. The Board may accept, modify with Respondent's approval, or reject this Stipulation. If the Board rejects the Stipulation, an administrative Complaint may be filed with the Board. Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the allegations in the administrative Complaint based on the fact that the Board has considered and rejected this Stipulation. Respondent does not waive any other rights regarding challenges to Board members.

D.3. If the Board rejects this Stipulation then, except for Respondent's waiver set forth in Paragraph D.2., this Stipulation shall be regarded as null and void, and admissions in this Stipulation and negotiations preceding the signing of this Stipulation will not be admissible at any subsequent disciplinary hearing.

D.4. Except for Paragraph D.2. which becomes effective when Respondent signs this Stipulation, this Stipulation shall not become effective until it has been approved by a majority of the Board and a Board member signs the attached Order.

#### **E. Violation of Stipulation and Consent Order**

E.1. If Respondent violates this Stipulation and Consent Order, the violation shall be considered grounds for additional discipline and the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board to assess whether Respondent has violated this Stipulation and Consent Order. The Chief shall also serve notice of the hearing and charges to Respondent and to Respondent's attorney, if any. Within twenty-one (21) days after the

notice of the hearing and charges is served, Respondent may submit a response to the allegations. If Respondent does not submit a timely response to the Board, the alleged violations will be deemed admitted.

b. At the hearing, the Board and Respondent may submit evidence and present oral argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to evidence relevant to whether Respondent has violated this Stipulation and Consent Order. At the hearing the facts and substantive matters related to the violations described in Section A shall not be at issue.

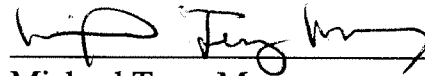
c. At the hearing, the Board may impose additional discipline, which may include the suspension or revocation of Respondent's license, the imposition of fines, the recovery of costs and attorney fees incurred by the Board and/or other conditions or limitations upon Respondent's practice.

E.2. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

E.3. This Stipulation contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above Stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I am waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this Stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this Stipulation according to the aforementioned terms, and I hereby agree to the above Stipulation for settlement. I understand that if the Board approves this Stipulation subject to changes, and the changes are acceptable to me, the Stipulation will take effect and an order modifying the terms of the Stipulation will be issued. If the changes are unacceptable to me or the Board rejects this Stipulation, it will be of no effect.

DATED this 16<sup>th</sup> day of June, 2007.

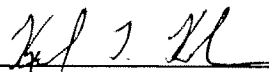


Michael Terry Mann  
Respondent

I recommend that the Board enter an Order based upon this Stipulation.

DATED this 2<sup>nd</sup> day of July, 2007.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By 

Karl T. Klein  
Deputy Attorney General

### ORDER

Pursuant to Idaho Code § 54-2220, the foregoing is adopted as the decision of the Idaho State Physical Therapy Licensure Board in this matter and shall be effective on the 17<sup>th</sup> day of August, 2007. **IT IS SO ORDERED.**

IDAHO STATE  
PHYSICAL THERAPY LICENSURE BOARD

By 

Carrie Coen, PT, Chair

## CERTIFICATE OF SERVICE

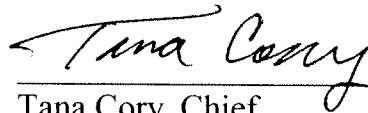
I HEREBY CERTIFY that on this 17<sup>th</sup> day of August, 2007, I caused to be served a true and correct copy of the foregoing by the following method to:

Michael Terry Mann  
505 N. Marguerite Road  
Spokane, WA 99212

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☐ Statehouse Mail

Karl T. Klein  
Deputy Attorney General  
P.O. Box 83720  
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☒ Statehouse Mail



Tana Cory, Chief  
Bureau of Occupational Licenses

**Michael Mann, MS, PT, ATP**  
**505 N. Marguerite Rd.**  
**Spokane Valley, WA 99212**

June 10, 2007

Re: Bureau of Occupational Licenses Investigation  
Case No. PHT-2007-4

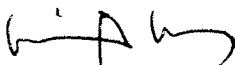
### **STATEMENT**

I, Michael Terry Mann, do solemnly swear That I never did, at any time, touch "Patient A" in a sexual way or touch her in a sexual area of her body. Her allegation against me was false, and by making it under oath, she has committed perjury. In the absence of convincing evidence for either party, the WA State Board of Physical Therapy believed her testimony and disbelieved mine, and so the Findings of Fact, Conclusions of Law, and Final Order on Docket No. 06-04-A-1024PT stand.

I wish to point out that "Patient A's" husband entered with her into the complaint and signed it. Said husband is currently a Federal Administrator with the Spokane Federal Bureau of Investigations. I do not believe I had a chance to win, even though I did represent myself thoroughly and well at my hearing. Given the Board's decision, I decided the most expedient way for me to resume my PT career was to submit to the orders rather than to appeal it.

In signing the Stipulation and Consent Order offered to me by the Idaho State Deputy Attorney General and the Idaho State Board of Physical Therapy, I do not admit guilt for sexual misconduct. I do, however, submit to the board's offer to settle the matter by abiding by it.

Signed,

A handwritten signature in black ink, appearing to be 'Michael Mann', written over a horizontal line.

Michael Mann



**STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
BOARD OF PHYSICAL THERAPY**

**In the Matter of the License to  
Practice as a Physical Therapist of:**

**MICHAEL T. MANN,**  
**License No. PT00005214,**

**Respondent.**

Docket No. 06-04-A-1024PT

## FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

**APPEARANCES:**

**Michael T. Mann, Respondent, pro se**

Department of Health Physical Therapy Program (the Department), by  
Office of the Attorney General, per  
Stephen Carpenter, Assistant Attorney General

**BOARD PANEL:** Charles Martin, P.T., Panel Chair  
Brett Windsor, P.T.  
Marsha Melnick, P.T.

**PRESIDING OFFICER:** Arthur E. DeBusschere, Health Law Judge

The Board of Physical Therapy (the Board) convened a hearing on January 18, 2007, in Spokane, Washington. The Department issued Statement of Charges alleging that the Respondent had violated the Uniform Disciplinary Act. The Board revokes the Respondent's license.

11

11

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND FINAL ORDER**

Page 1 of 14

Docket No. 06-04-A-1024PT

Exhibit A  
Page 1 of 14

## ISSUES

Whether the Respondent's conduct set forth in the Statement of Charges constituted unprofessional conduct within the meaning of RCW 18.130.180(1), (4), (7), and (24) and WAC 246-915-182(1).

If the Department proves unprofessional conduct, what are the appropriate sanctions under RCW 18.130.160?

## SUMMARY OF PROCEEDING

At the hearing, the Respondent testified. The Department also presented testimony of Patient A, Alexa Dobbs, Alan Wagner, Harold Watters, and Linda Craig. Patient A was identified in the Confidential Schedule attached to the Statement of Charges. The Respondent did not present any witnesses.

There were twenty-one (21) exhibits offered by the Department, which were admitted:

- Department's Exhibit No. 1: Patient A's Complaint, May 2, 2005, pp. Inv. 66-69.
- Department's Exhibit No. 2: Complaint, Department of Health, May 5, 2005, pp. Inv. 115-119.
- Department's Exhibit No. 3: Patient A's treatment records, pp. Inv. 137-150.
- Department's Exhibit No. 4: Spokane County Sheriff's Department Incident Report, pp. Inv. 151-156.
- Department's Exhibit No. 5: Stipulation to Informal Disposition, Docket No. 94.07-0003PT, March 21, 1995, pp. Inv. 406-408.
- Department's Exhibit No. 6: Handwritten Statement of Former Patient, pp. Inv. 425-428.

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND FINAL ORDER

Page 2 of 14

Docket No. 06-04-A-1024PT

Exhibit A  
Page 2 of 14

- Department's Exhibit No. 7: Interview of Former Patient, September 15, 1994, pp. Inv. 474-475.
- Department's Exhibit No. 8: Interview of Respondent, October 4, 1994, pp. Inv. 478.
- Department's Exhibit No. 9: Email from Mark Erischek, pp. Inv. 538.
- Department's Exhibit No. 10: Interview meeting with Respondent, May 4, 2005, pp. Inv. 160-163.
- Department's Exhibit No. 11: Hospital Tracking Form, pp. Inv. 164-168.
- Department's Exhibit No. 12: Hospital's personnel file, pp. Inv. 169-204.
- Department's Exhibit No. 13: Interview of Respondent, July 26, 2005 pp. Inv. 224-225.
- Department's Exhibit No. 14: Interview of Complainant, July 28, 2005, pp. Inv. 228-230.
- Department's Exhibit No. 15: Interview of Respondent, December 9, 2005, pp. Inv. 231-233.
- Department's Exhibit No. 16: Statement of Respondent, not dated, pp. Inv. 243-256.
- Department's Exhibit No. 17: A Concise History and Explanation for the "Two-Point" Method of Headache and Pain Treatment, by Michael Mann, M.S., P.T., pp. Inv. 306-309.
- Department's Exhibit No. 18: Letter from Respondent, January 5, 1999, pp. Inv. 346-347.
- Department's Exhibit No. 19: What is Myofascial Release? by Michael Mann, M.S., P.T., pp. Inv. 430-434.
- Department's Exhibit No. 20: Interview of Respondent, July 26, 1999, pp. Inv. 625-626.
- Department's Exhibit No. 21: Curriculum Vitae of Alexa Dobbs, pp. Inv. 658-659.

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND FINAL ORDER

Page 3 of 14

Docket No. 06-04-A-1024PT

Exhibit A  
Page 3 of 14

The Department's Exhibit No. 22, which was the Curriculum Vitae of Linda Craig, was not offered at the hearing and thus, not admitted.

There were twenty-four (24) exhibits offered by the Respondent, which were admitted:

- Respondent's Exhibit No. 1: Letter from Virginia Taft, August 6, 2006, pp. 1-2.
- Respondent's Exhibit No. 2: Letter from Corrine Larsen, August 14 2006, p. 1.
- Respondent's Exhibit No. 3: Letter from Peggy Capes, pp. 1-2.
- Respondent's Exhibit No. 4: Letter from Gary Keown, November 2, 2005, pp. 1-3.
- Respondent's Exhibit No. 5: Letter from Mardi Baron, August 20, 1998, p. 1.
- Respondent's Exhibit No. 6: Idaho Certificate of PT License, April 23, 2003, p. 1.
- Respondent's Exhibit No. 7: Letter from Samuel Ketting, January 23, 1992, p. 1.
- Respondent's Exhibit No. 8: Letter from Sandra Cope, October 20, 1992, p. 1.
- Respondent's Exhibit No. 9: Letter from George Smith, August 17, 1993, p. 1.
- Respondent's Exhibit No. 10: Letter from David Mell, May 9, 1996, p. 1.
- Respondent's Exhibit No. 11: Letter from Andrea Gass, not dated, p. 1.
- Respondent's Exhibit No. 12: Letter from Mike Mirsky, not dated, p. 1.
- Respondent's Exhibit No. 13: Letter from Harold Watters, November 17, 2005, and Respondent's Response, pp. 1-18.
- Respondent's Exhibit No. 14: Detailed Explanation of the Bowen Method and Body Balancing and illustrations, pp 1-18.
- Respondent's Exhibit No. 15: Letters to PT Bulletin on Myofascial Release, September 11, 1991, pp. 1-3.

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND FINAL ORDER

Page 4 of 14

Docket No. 06-04-A-1024PT

Exhibit A  
Page 4 of 14

Respondent's Exhibit No. 16: Excerpt from Myofascial Release, The Search for Excellence, John Barnes, Chapter 12 by Tim Juett, p. 1.

Respondent's Exhibit No. 17: Evaluation of Michael Mann, not dated, pp. 1-3.

Respondent's Exhibit No. 18: What is Myofascial Release? by Michael Mann, M.S., P.T., pp. 1-5.

Respondent's Exhibit No. 19: The Therapeutic Value of the Craniofacial System, by John Upledger, pp. 1-2.

Respondent's Exhibit No. 20: Excerpts from The Evolution of the Concept of Somato Emotional Release, pp. 1-8.

Respondent's Exhibit No. 21: A Concise History and Explanation for the "Two-Point" Method of Headache and Pain Treatment, by Michael Mann, M.S., P.T., pp. 1-4.

Respondent's Exhibit No. 22: Treating Fibromyalgia, by William Salt, pp 1-4.

Respondent's Exhibit No. 23: Lecture Notes, Neurostructural Therapy Outline, pp. 1-4.

Respondent's Exhibit No. 24: Neuro-Structural Therapy illustrations, pp. 1-7.

Based upon the evidence presented, the Board makes the following findings of fact by clear and convincing evidence.

#### I. FINDINGS OF FACT

1.1 Michael T. Mann, Respondent, was first issued a license to practice as a physical therapist by the State of Washington in December 1990. The Respondent's license is currently active.

1.2 The Respondent's first treatment session with Patient A was on April 21, 2005. Patient A went to see the Respondent with a problem for tingling and numbness in the fingertips and thumbs. She also had pain in her teeth and jaw, for

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND FINAL ORDER

Page 5 of 14

Docket No. 06-04-A-1024PT

Exhibit A  
Page 5 of 14

which she was seeing a dentist. She complained of sinus pain, frontal headaches, and high neck pain bilaterally. Patient A reported that she had a whiplash injury which occurred about twenty (20) years prior. The Respondent measured Patient A's forward head in sitting posture, which was the only assessment that the Respondent performed. The Respondent informed Patient A that he needed to take ten (10) layers of stress off her and that he would be applying an Australian technique. At the end of the session, the Respondent suggested to Patient A that she write letters to those persons who are causing her the most stress, but do not send the letters. This would help her identify the reasons for the stresses in her life.

1.3 During the evaluation and assessment of Patient A on April 21, 2005, the Respondent did not conduct a standard evaluation of her posture. During this session, the Respondent failed to exam the patient's reflexes, conduct any strength testing, or conduct any range of motion testing. Particularly, the Respondent failed to exam the patient's cranial nerve reflexes. There was no muscle testing for paralysis or testing for thoracic outlet syndrome. This standard testing and evaluation was necessary to determine whether physical therapy intervention was appropriate and whether Patient A should see a physician or neurologist. During this session, the Respondent attempted to counsel her regarding stresses in her life, intimating that she might suffer from obsessive compulsive disorder. The Respondent does not hold a credential that allows him to engage in therapeutic counseling. The Respondent's assessment and evaluation of Patient A was below the standard of care for a physical therapist in the state of Washington and created an unreasonable risk of harm to Patient A.

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND FINAL ORDER

Page 6 of 14

Docket No. 06-04-A-1024PT

Exhibit A  
Page 6 of 14

1.4 The Respondent saw Patient A for physical therapy on April 27, 2005. During this session, the Respondent asked Patient A where he should begin treatment. Patient A had some stiffness and soreness in her right foot and asked the Respondent if he could work on her right foot first. Patient A was lying on a table on her back. The end of the treatment table was against the wall and Patient A's head was next to the wall. She was wearing polar fleece pants and a top. The Respondent sat on a stool and worked on Patient A's foot. After working on Patient A's right foot, the Respondent said that he wanted to work on her face, because she had so much pain in that area at the previous session. The Respondent could not move to the other end of the table, because Patient A's head was against the wall. So Patient A asked the Respondent if he wanted her to turn around. The Respondent said yes. When Patient A sat up to turn around, the Respondent quickly came over to her with his hands straight and ran his fingers between her legs. Patient A felt the Respondent's finger tips rubbing up her vaginal area through her polar fleece pants. When she totally turned around with her legs closed, she felt him rub his hand on her inner thighs. Patient A was shocked, but at the same time, she tried to tell herself that it must have been an accident.

1.5 When the Respondent was working on Patient A's face, the Respondent informed her that her pain was coming from a spot in her pubic bone area. So for treatment, the Respondent applied pressure in the pubic bone area. While applying pressure in the public area, the Respondent commented that there are sexual and repressive problems in the pubic bone area. He also commented about pain that could occur in the pubic area, because, he said, "sex can be rough." After the session, the

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND FINAL ORDER

Page 7 of 14

Docket No. 06-04-A-1024PT

Exhibit A  
Page 7 of 14

Respondent asked Patient A if she were going anywhere. She responded that she was going to go somewhere later on during the day. The Respondent informed her not do anything that takes a lot of emotional energy.

1.6 Patient A felt very uncomfortable and scared as to what had happened. After she struggled with these feelings for a couple days, she discussed it with her husband and wrote down everything that she remembered at the time. On May 2, 2005, Patient A submitted a written complaint to the Respondent's employer. On May 5, 2005, she filed a complaint with the Department.

1.7 Patient A's testimony was credible and convincing. Patient A's tone of voice, her emotional expressions, and the manner in which she answered the questions about the Respondent's contact and touching of her intimate area evidenced that she was believable and being truthful. In contrast, the Respondent's denial was not credible.

1.8 The basis of the Respondent's treatment approach was to treat a pattern associated with the pain. The Respondent treats headache pains by touching different regions of the body to alleviate a patient's symptoms. Here, the Respondent treated Patient A's facial pains by applying pressure to her pubic bone area. The Respondent also maintained that there is a treatment correlation between the mouth and vagina. There are no therapeutic justifications for these treatment approaches. Further, there was no therapeutic justification for the Respondent's comments to Patient A, regarding repressed sexual problems and "rough sex." On April 27, 2005, the Respondent's treatment approach and verbal assessment with Patient A was below the standard of

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND FINAL ORDER

Page 8 of 14

Docket No. 06-04-A-1024PT

Exhibit A  
Page 8 of 14



care for a physical therapist in the state of Washington and created an unreasonable risk of harm.

## II. CONCLUSIONS OF LAW

2.1 At all times material to the Statement of Charges, the Respondent has been licensed to practice as a physical therapist by the State of Washington. The Board has jurisdiction to hear this matter, pursuant to chapter 18.74 RCW, and the Uniform Disciplinary Act, chapter 18.130 RCW.

2.2 The Washington Supreme Court held that the standard of proof in a professional disciplinary hearing is clear and convincing evidence. *Ongom v. Dept. of Health*, No. 76618-5, slip op. (Wash. Dec 14, 2006).

2.3 The Board used its medical experience, competency, and specialized knowledge to evaluate the evidence presented in this case. Further, the Board used its medical expertise in considering the expert testimony in this proceeding. RCW 34.05.461(5).

2.4 Any findings based substantially on credibility of evidence or demeanor of witnesses shall be so identified. RCW 34.05.461(3). In this case, the Board made findings regarding the credibility of the testimony of Patient A.

2.5 The Statement of Charges alleged that the Respondent violated RCW 18.130.180(1), (4), (7), and (24). Under these subsections, unprofessional conduct is defined as:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. . . .

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND FINAL ORDER

Page 9 of 14

Docket No. 06-04-A-1024PT

Exhibit A  
Page 9 of 14

...

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;

...

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

...

(24) Abuse of a client or patient or sexual contact with a client or patient;

RCW 18.130.180.

The state administrative rule referenced under RCW 18.130.180(7) and charged in the Statement of Charges is WAC 246-915-182:

(1) the physical therapist shall never engage in sexual contact or sexual activity with current clients.

2.5 Based upon the above Findings of Facts, Paragraphs 1.1 through 1.8, the Department proved by clear and convincing evidence that the Respondent's conduct constituted unprofessional conduct in violation of RCW 18.130.180(1), (4), (7), and (24) and WAC 246-915-182(1).

2.6 Upon a finding of unprofessional conduct, the Board has the authority to order appropriate sanctions.

In determining what action is appropriate, the disciplinary authority must first consider what sanctions are necessary to protect or compensate the public. Only after such provisions have been made may the disciplining authority consider and

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND FINAL ORDER

Page 10 of 14

Docket No. 06-04-A-1024PT

Exhibit A  
Page 10 of 14

include in the order requirements designed to rehabilitate the license holder.

RCW 18.130.160. The Respondent's conduct in this case requires that the Board take steps to ensure that sufficient safeguards are in place to protect the public.

2.7 In imposing sanctions, the Commission may consider a prior stipulation to informal disposition. RCW 18.130.160. In this case, the Board considered that on March 21, 1995, the Respondent entered into a Stipulation to Informal Disposition, Docket No. 94-07-0003PT. This stipulation concerned RCW 18.130.180(1) and (24). The Respondent stipulated that he was prohibited from sexually abusing clients or patients or touching breasts. This was an aggravating factor in determining sanctions.

2.8 The Board concludes that the Respondent's license should be revoked. Before he can re-apply for reinstatement under RCW 18.130.150, the Respondent should submit to a psycho-sexual evaluation by an approved evaluator. The Respondent should complete the treatment recommended. The Respondent should pay a fine and complete a medical screening course. These conditions along with those ordered below are necessary to protect the public.

### III. ORDERS

Based on the foregoing, the Board hereby issues in this case the following ORDERS:

3.1 The Board REVOKES the Respondent's license to practice as a physical therapist in the state of Washington.

3.2 Psychological or Psychiatric Sexual-Psycho Evaluation. Prior to the

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND FINAL ORDER

Page 11 of 14

Docket No. 06-04-A-1024PT

Exhibit A  
Page 11 of 14

Respondent petitioning for reinstatement, the Respondent shall submit to a psychiatric or psychological sexual-psycho evaluation performed by a psychiatrist or psychologist (the evaluator), who shall be designated by and approved in advance of the evaluation by the Board. The Respondent shall provide a copy of this Order to the evaluator. The evaluator conducting the sexual-psycho evaluation shall furnish a report to the Board. The evaluation shall include the following assessment:

1. Psychiatric or psychological diagnosis, if any.
2. Treatment recommendations, if any.
3. Capacity to participate in treatment, if treatment is indicated.
4. Future mental stability with regard to the ability to practice safely.
5. Recommendations regarding Respondent's continuing practice of the physical therapy profession, if any.

If the evaluator finds that the Respondent is in need of treatment in order to practice safely, the Respondent shall undergo and complete treatment by a treatment provider approved in advance by the Board.

**3.3 Physical Therapy Education Course.** Prior to the Respondent petitioning for reinstatement, the Respondent shall submit to the Board written proof of completion of a minimum of fourteen (14) hours of a medical screening course by William Boissonnault, or a similar course approved in advance, by the Board.

**3.4 Fine.** Prior to the Respondent petitioning for reinstatement, the Respondent shall pay a fine in the amount of \$5,000.00 (five thousand dollars). The payment shall be made payable to the Washington State Treasurer and sent to the following address:

Board of Physical Therapy  
P.O. Box 7867  
Olympia, WA 98504-7867

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND FINAL ORDER

Page 12 of 14

Docket No. 06-04-A-1024PT

Exhibit A  
Page 12 of 14

3.5 Costs. The Respondent shall be responsible for and shall pay for any and all costs involved in his compliance with this Order.

3.6 Reinstatement. The Respondent shall not petition for full reinstatement until after he has completed the above three conditions set forth in Paragraph 3.2 through Paragraph 3.4.

Dated this 13 day of February, 2007.

**Board of Physical Therapy**



CHARLES MARTIN, PT, Panel Chair

FOR INTERNAL USE ONLY: (Internal tracking numbers)  
Program Nos. 2005-05-0001 & 2005-05-0002

#### CLERK'S SUMMARY

Charges	Action
RCW 18.130.180(1)	Violated
RCW 18.130.180(4)	Violated
RCW 18.130.180(7)	Violated
RCW 18.130.180(24)	Violated

#### NOTICE TO PARTIES

This Order is subject to the reporting requirements of RCW 18.130.110, Section 1128E of the Social Security Act, and any other applicable interstate/national reporting requirements. If adverse action is taken, it must be reported to the Healthcare Integrity Protection Data Bank.

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND FINAL ORDER

Page 13 of 14

Docket No. 06-04-A-1024PT

Exhibit A  
Page 13 of 14

Either party may file a petition for reconsideration. RCW 34.05.461(3); RCW 34.05.470. The petition must be filed within 10 days of service of this Order with:

Adjudicative Service Unit  
P.O. Box 47879  
Olympia, WA 98504-7879

and a copy must be sent to:

Board of Physical Therapy  
PO Box 7867  
Olympia, WA 98504-7867

The petition must state the specific grounds upon which reconsideration is requested and the relief requested. The petition for reconsideration is considered denied 20 days after the petition is filed if the Adjudicative Service Unit has not responded to the petition or served written notice of the date by which action will be taken on the petition.

A petition for judicial review must be filed and served within 30 days after service of this Order. RCW 34.05.542. The procedures are identified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. A petition for reconsideration is not required before seeking judicial review. If a petition for reconsideration is filed, however, the 30-day period will begin to run upon the resolution of that petition. RCW 34.05.470(3).

The order remains in effect even if a petition for reconsideration or petition for review is filed. "Filing" means actual receipt of the document by the Adjudicative Service Unit. RCW 34.05.010(6). This Order was "served" upon you on the day it was deposited in the United States mail. RCW 34.05.010(19).

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND FINAL ORDER

Page 14 of 14

Docket No. 06-04-A-1024PT

Exhibit A  
Page 14 of 14